Distance marketing of consumer financial services

1998/0245(COD) - 26/06/2002 - Commission opinion on Parliament's position at 2nd reading

The European Parliament adopted two amendments to the common position, both of which are accepted by the Commission. The purpose of one amendment is to resolve the problem posed by exercising the right of withdrawal in the event of the involvement of a notary. The idea is to take account, on the one hand of the legal problems, which would arise from the withdrawal of a notarial act and, on the other hand, of the guarantees offered by the involvement of a notary in terms of consumer protection. The wording takes account of the legal situation in the Member States which do not have civil law notaries. The commission is aware of the undifferentiated application of the right to withdrawal to all such acts. In view of the additional guarantees offered by the involvement of a notary in terms of consumer protection, it accepts the inclusion of this provision. The Commission also accepts the clarification of the provision under which payment or the service provided before the right of withdrawal was exercised may be required by the supplier only if the consumer asked for performance of the contract to start before expiry of the withdrawal period. The amendment makes the principle clearer, by stipulating that the performance of the contract may only begin after the consumer has given approval. It also means that the supplier can decide not to commence performance of the contract before expiry of the withdrawal period, in which case the consumer could not be required to pay any penalty.